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June 25, 1998

VIA HAND DELIVERY

Magalie Salas, Secretary
Federal Communications Commission
1919 M Street, Room 222
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Re: In the matter of Petition of the ALTS for a
Declaratory Ruling Establishing Conditions
Necessary to Promote Deployment of Advanced
Telecommunications Capability Under Section
706 of the Telecommunications Act of 1996,
CC Docket No. 98-78

Dear Ms. Salas:

Please find enclosed for filing an original and 12 copies of
Reply Comments of SBC Communications, Inc. in the above-captioned
proceeding.

Please date-stamp and return the extra copy provided to the
individual delivering this package.

Sincerely,



Michael K. Kellogg

Enclosures

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JUN 25 1998

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

**Federal Communications Commission
Office of Secretary**

In the Matter of

CC Docket No. 98-78

Petition of the Association for Local
Telecommunications Services (ALTS) for a
Declaratory Ruling Establishing Conditions
Necessary to Promote Deployment of
Advanced Telecommunications Capability
Under Section 706 of the
Telecommunications Act of 1996

**REPLY COMMENTS OF
SBC COMMUNICATIONS, INC.**

SBC demonstrated in its initial comments that high-speed data services and conventional POTS are in different markets, that the market for high-speed data services is fully competitive, and that, under these circumstances, the 1996 Telecommunications Act, nearly twenty years of Commission precedent, and compelling economic logic support the further deregulation of high-speed data services. The comments filed by ALTS's own supporters help to confirm this conclusion. The Commission should therefore deny ALTS's petition and further deregulate high-speed data networks and services.

1. Conventional POTS and High-Speed Data Services are Different Markets.

Several supporters of ALTS's petition argue that the Commission should treat conventional POTS and high-speed data networks as a single market. They claim that the technology used to provide conventional POTS and high-speed data are "impossible to distinguish,"¹ that high-speed data networks are part of "the natural evolution of the telephone network to increased digital capabilities and higher speed transmission",² and that these networks neither "require the use of radically new functionalities"³ nor "represent a sheer quantum leap beyond current technical capabilities."⁴

As SBC demonstrated in its initial comments, however, from both the supply and demand sides, the market for high-speed data networks is fundamentally different than the market for conventional POTS.⁵ On the supply side, all carriers – including incumbent LECs – must deploy new, very different networks and equipment in order to meet the demand for new services. MCI, for example, admits that "the circuit-switched POTS infrastructure is no longer well-suited to

¹ Intermedia at 2-3 (it "is technically and practically impossible to distinguish between digital packet-switched networks and the services provided over them, and traditional circuit-switched networks and the services that they carry."); see also id. ("In fact, there are not two separate networks and there never were. Rather, there is a single ILEC network that, like the networks constructed by CLECs across the country, is evolving into a predominantly digital, packet-switched facility."); MCI at 4 ("[t]here is no difference in the equipment that is used to provide voice or data services. . . "); CIX at 4 ("[a]s a practical matter, the ILEC's xDSL services are intrinsically married to their local service monopoly.").

² LCI White Paper at 6; see also WorldCom at 15 ("part of a continuing evolutionary change to existing technology and plant.").

³ LCI White Paper at 6.

⁴ WorldCom at 15.

⁵ See SBC Comments at 4-6.

meet many users' requirements for continuous and/or high-speed data transmissions."⁶ LCI notes that the provision of high-speed data services will require "significant" additional investment in network infrastructure.⁷ e.spire states that it "and other CLECs are deploying billions of dollars of risk capital to deliver just such advanced communications services all across the nation."⁸ Indeed, the network that is expected to carry most traffic in the year 2003 hasn't yet been built.

On the demand side, consumer demand for high-speed data services is increasing, especially as compared to the analog facilities that carry ordinary voice calls. The demand for high-speed data services is growing at a staggering rate, far outpacing the demand for voice. LCI points to the "increasing importance of data telecommunications relative to voice,"⁹ noting that "Internet traffic is growing at 1,000% a year," that voice is "expanding at only single-digit rates," that data traffic "already accounts for over half the total traffic of most U.S. carriers," and that "by the year 2005, the volume of data traffic is expected to be 23 times the volume of voice traffic."¹⁰ LCI and numerous other commenters attempt to explain away the significance of this profound data revolution by arguing that the voice network is capable of supporting data transmission, and that data networks are capable of supporting voice.¹¹ But the fact that, at the

⁶ MCI at 4 (emphasis added).

⁷ Id. at 20 (emphasis added).

⁸ e.spire at 2 (emphasis added).

⁹ LCI White Paper at 5 (emphasis added).

¹⁰ Id. (emphasis added).

¹¹ MCI at 4 ("voice services can be carried over either circuit-switched or packet-switched networks, and these two types of networks can serve many of the same functions."); LCI White

margin, data networks and voice networks can substitute for each other, is hardly an adequate grounds for refusing to make a regulatory distinction between the equipment and facilities that support these two services, or for distinguishing between the two service categories.¹²

Indeed, the Commission has rejected just such an approach in its recent Report to Congress on universal service issues.¹³ There, the Commission repeated its conclusion that providers of Internet services were not telecommunications carriers, and therefore were not required to contribute to universal service pursuant to 47 U.S.C. § 254(d).¹⁴ The mere fact that the Internet could be used for both voice and data was not enough, the Commission determined, to treat Internet services like a traditional, regulated telecommunications service.¹⁵

Paper at 7 (“In a similar manner, placement of xDSL electronics in the local loop allows subscribers to place voice calls over the circuit-switched network and to access data networks simultaneously over a single line”); Nextlink at 7-8 (“[T]he current “basic” services, and “advanced” services dichotomy is inherently arbitrary because of the constant rate of change and innovation in the telecommunications industry and is unsustainable as a practical matter as the distinctions between such services continue to blur.”).

¹² Although it is true that, on digital packet-switched networks, voice and data are indistinguishable, it does not logically follow that such services are likewise indistinguishable on the circuit-switched voice network. As a matter of simple logic, the greater (data) can include the lesser (voice), but not vice versa. The circuit-switched voice network is indeed severely limited in its ability to handle data traffic, especially over the long term.

¹³ See Report to Congress, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (released Apr. 10, 1998).

¹⁴ Id. at ¶¶ 67-90.

¹⁵ Indeed, the Commission stated that precisely “because IP packets carrying voice communications are indistinguishable from other types of packets,” carriers that provided Internet data services could not be deemed to be involved in the “provision” or “offering” of telecommunications. Id. at ¶ 87 (citing 47 U.S.C. §§ 153(46), 254(d)). The Commission further ruled that all “hybrid” services – i.e., ones that involve both a typical information service (e.g., Internet access) and a typical telecommunications service (e.g., voice) would necessarily fall on the information services side of the line. See id. ¶ 57 (“hybrid services are information services, and are not telecommunications services.”).

Finally, the commenters argue that high-speed data services are similar to the T-1 services that ILECs have provided for many years (because T-1 services use HDSL technology, which is related to ADSL technology),¹⁶ and that high-speed data services are “no different” from the ISDN services that incumbent LECs provide.¹⁷ As described in SBC’s initial comments,¹⁸ however, the high-speed data services at issue in this and other 706 proceedings are distinguishable from both T-1 and ISDN services in a number of significant ways.¹⁹ Both T-1 and ISDN are provided using the same core components of the legacy local exchange network that incumbent LECs use to provide conventional POTS, including the large embedded base of circuit switches. Moreover, ISDN service is a medium-band service; it does not offer enough bandwidth to support many applications.²⁰ Indeed, several commenters who argue that high-speed data services are but a mere evolution of existing technology, acknowledge that high-speed

¹⁶ WorldCom at 15 (“After all, the ILECs themselves have employed HDSL technology internally for over ten years in their provisioning of hundreds of thousands of T-1 lines.”); LCI White Paper at 6-7 (“ILECs have used a version of xDSL known as HDSL to support high bandwidth (T-1) transport for both end users and carrier-customers. Those T-1 lines can be used by customers for both voice and data transmissions at high capacity.”).

¹⁷ LCI White Paper at 6.

¹⁸ See SBC Comments at 6-7.

¹⁹ WorldCom indeed notes that DSL technology “holds the potential to singlehandedly transform the ordinary twisted-pair copper telephone line into the ‘Local Loop of the 21st Century.’” WorldCom at i (emphasis added). WorldCom further asserts that “[c]ontrary to popular conceptions, DSL . . . itself is not a certain type of telephone line or service, but rather is a technology that uses advanced electronics to greatly increase the capacity, speed, and capability of existing copper telephone loops.” *Id.* at 5 (emphasis added).

²⁰ See, e.g., WorldCom Press Release, UUNet Details Nationwide Deployment of IDSL Technology, Mar. 12, 1997 (“While traditional ISDN and analog dial-up Internet access can support web browsing and email use, they are not designed to support Internet applications which require full-time, dedicated access.”).

data services such as xDSL permit transmissions “at much higher speed[s]” than is possible with ISDN.²¹ Moreover, as no commenter disputes, T-1 services are used almost exclusively by larger businesses, not by residential and small-business users.²² As LCI – the main proponent of the “evolutionary theory” notes – the “demand” for new “high speed, digital, broadband telecommunications services” is being driven “particularly [by] residential and small-business customers.”²³ Whereas T-1 services cost upward of \$1,000 per month, the new high-speed networks will offer service to residential customers “in a cost-effective manner.”²⁴

2. The Emerging Markets for High-Speed Data Services are Competitive.

ALTS’s supporters provide the Commission with additional proof that incumbent LECs are not, to any significant degree, the primary suppliers of high-bandwidth services today and that incumbent LECs are typically second-to-market entrants. WorldCom notes that its “MFS subsidiary was the first company to develop a workable IDSL service to replace circuit-switched ISDN service, the first to actually deploy the service, and the first to present it to the Commission as part of a live demonstration in 1996.”²⁵ Nextlink notes that “CLECs’ ability to beat ILECs to market with advanced services, such as ADSL and other xDSL services, has provided those

²¹ Network Access Solutions at 1. See also WorldCom at 15 (ISDN is “a slower version of DSL service”).

²² As CLECs that provide DSL services have already acknowledged in 706 proceedings, T-1 services “are attractive to large businesses but impractical for small business or residential customers,” whereas “DSL services are almost inherently targeted at residential and small business customers.” Comments of the DSL Access Telecommunications Alliance (DATA) at 5 & n.3, CC Docket Nos. 98-11, 98-26, 98-32 (RBOC 706 petitions) (FCC filed Apr. 6, 1998).

²³ LCI White Paper at 3.

²⁴ Id. at 3.

CLECs with a huge opportunity to win customers dissatisfied with the historically slow pace of ILEC innovation.”²⁶ Like ALTS,²⁷ Nextlink notes that ILECs are entering the high-speed market only “in response to the threat of competition.”²⁸ Network Access Solutions describes itself as “one of a number of companies formed specifically to provide telecommunications service to end users based on the family of digital subscriber line (“xDSL”) technologies.”²⁹ KMC Telecom notes that it has “installed state-of-the-art networks” in several cities.³⁰ e.spire states that it “and other CLECs are deploying billions of dollars of risk capital to deliver just such advanced communications services all across the nation -- in small communities . . . as well as large urban centers.”³¹ Level 3 claims that it has built the “first end-to-end network designed and built specifically for Internet Protocol based services.”³²

Despite these explicit affirmations that the market for high-speed data services is competitive, several commenters claim that ILECs are now, or soon will be, dominant providers of high-speed data services.³³ Not surprisingly, however, not a single commenter even attempts

²⁵ WorldCom at 6 (emphasis added).

²⁶ Nextlink at 3 (emphasis added).

²⁷ See ALTS Pet. at 5 (incumbent LECs have deployed advanced technology “only in response to competitive pressures brought on by the CLEC industry.”).

²⁸ Nextlink at 3 (emphasis added).

²⁹ Network Access Solutions at 1 (emphasis added).

³⁰ KMC Telecom at 1 (emphasis added).

³¹ e.spire at 2 (emphasis added).

³² Level 3 at 2 (emphasis added).

³³ See, e.g., LCI at 4 (“Fencing off access to ILEC data networks will likely create a dominant LEC in both data and voice in the future.”); AT&T at 1 (supporting ALTS’s petition “is crucial

to deal with the wide variety of high-speed data services that are now being offered completely apart from the telephone network, over independently operated cable and satellite networks. Over 10 percent of homes already have access to high-speed cable modem service; that figure will rise to 60 percent by the end of next year.³⁴ Hughes Electronics offers high-speed Internet access via DBS satellites nationwide. Several more broadband satellite data networks (e.g., Iridium) will be fully operational by the end of next year.

LCI argues that CLECs will have “far lower customer volumes” than incumbent LECs, and therefore CLECs’ “per-customer costs will be far higher.”³⁵ Incumbent LECs, LCI argues, start with “almost 100 percent of the local customer base,”³⁶ whereas CLECs “begin with virtually no local market share.”³⁷ Sprint³⁸ and MCI³⁹ make similar arguments. In fact, incumbent LECs do not have any inherent advantages in deploying these networks of the future.

to ensure that ILECs do not create for themselves a new ‘digital’ monopoly to replace the ‘analog’ monopoly . . .”). See also, SBC Comments at 13-14.

³⁴ See Allied Business Intelligence Press Release, <http://www.alliedworld.com/> (CATV98.pdf release).

³⁵ LCI White Paper at 30.

³⁶ Id. at 30.

³⁷ Id. at 4.

³⁸ Sprint at 4 (“In any case the utilization of the collocated equipment could be uneconomically low. A DSLAM, for example, that can terminate roughly 500 loops would be grossly underutilized in an end office where Sprint has only one or two ION customers.”).

³⁹ MCI at 7 (“As with traditional local service, CLECs will not be able to afford to deploy equipment in every central office simultaneously. Further, in suburban and rural central offices, for example, demand for advanced services will not be large enough to justify CLEC expenditures for collocation cages and xDSL equipment.”).

Incumbent LECs quite obviously do not have 100 percent of the market for high-speed data services: they are largely not serving this high-speed data market at all. As Chairman Kennard recently stated, in wholeheartedly endorsing the deregulation of high-speed data services, “[a]ll companies are new entrants when it comes to these services”⁴⁰ Although incumbent LECs plan to enter the market for high-speed data services, they are by no means in an inherently better position to attract more customers for these services than other competitors.⁴¹ Many CLECs and interexchange carriers, including AT&T/TCG and MCI/WorldCom/MFS, have been providing high-speed data services for many years, and have indeed built strong reputations and brand names in doing so.⁴² Moreover, because competitors can freely obtain interconnection and access to unbundled loops, SBC has no advantages by virtue of its control of the traditional local network. As Chairman Kennard notes: “If the telephone company has opened up its underlying networks to competition, the competitors can invest in the same advanced services [as the telephone company].”⁴³

⁴⁰ William E. Kennard, Chairman, FCC, A Broadband Vision for America, Remarks before the FCBA, June 24, 1998.

⁴¹ As U S West notes, several CLECs conceded this in their comments on U S West’s petition for relief. See U S West at 8 (quoting Opposition of MCI, CC Dkt No. 98-26 at 10 n.3 (Apr. 6, 1998): “CLECs can efficiently provide DSL technologies as sufficiently as U S West and other BOCs.”); id. (quoting Charles McMinn, President and CEO, Covad: “We are happy if they [the incumbent LECs] don’t provide any of the electronics, let us put our own electronics in place . . .”).

⁴² See ALTS Pet. at 7 (CLECs “throughout the U.S. have over a decade of experience providing advanced data services, including high-speed LAN, frame relay, ATM, Internet access, multipoint video, and private line services.”).

⁴³ William E. Kennard, Chairman, FCC, A Broadband Vision for America, Remarks before the FCBA, June 24, 1998.

3. The Commission Should Further Deregulate the Provision of High-Speed Data Services.

As SBC demonstrated in its initial comments, for over twenty years, the Commission has pursued a consistent policy of not regulating innovative services offered in competitive markets, and – above all -- of not regulating non-dominant, second-to-market providers of such services.

Section 251(c) does not require the Commission to extend the unbundling and interconnection mandates to high-speed data networks and services. As SBC noted in its initial comments, and as several other commenters agree,⁴⁴ Section 251(c) was intended to open to competitors incumbent LECs' bottleneck facilities, not to provide competitors with access to investments in new technologies that incumbent LECs have not yet made, and in which incumbent LECs will not be dominant providers. Indeed, extending Section 251(c) to the emerging cluster of high-speed data markets will have a deleterious impact on investment and competition across the industry. Extending unbundling and interconnection to this new, emerging class of networks, at this early point in their evolution, would also be flatly inconsistent with the language and intent of Section 706, an unambiguously new-technology, deregulatory provision of the 1996 Act.

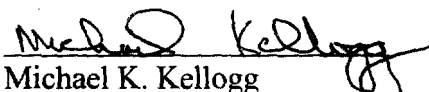
⁴⁴ See, e.g., GTE Comments at 12 (“the FCC should determine that Section 251(c) applies only to incumbent LEC networks as those networks existed when the 1996 Act became effective.”); U S West at 14 (noting that Section 251(c) does not apply to advanced data services because they are not “telephone exchange or exchange access.”).

CONCLUSION

For the reasons stated above and for the reasons stated in its initial comments, SBC respectfully urges the Commission to deny ALTS's petition.

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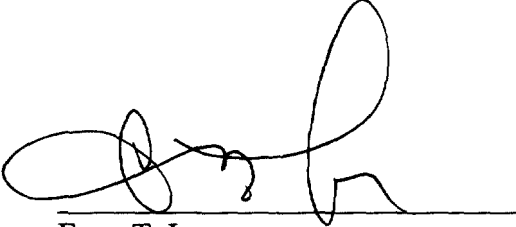
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June 25, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 1998, I caused copies of the foregoing
REPLY COMMENTS OF SBC COMMUNICATIONS INC. to be served upon the parties listed
below by first-class mail.

A handwritten signature in black ink, consisting of a large loop on the left, a series of smaller loops and strokes in the middle, and a large, vertical loop on the right, all connected by a horizontal line.

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